

FILED
ASHEVILLE, N.C.

JUL 10 2007

U.S. DISTRICT COURT
W. DIST. OF N.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

1:07 me 22

IN RE: REAL PROPERTY LOCATED AT)
57 CANDLER HEIGHTS ROAD,)
CANDLER, BUNCOMBE COUNTY,)
NORTH CAROLINA, AS MORE)
PARTICULARLY DESCRIBED IN A DEED)
RECORDED AT BOOK 2255, PAGE 0635,)
IN THE BUNCOMBE COUNTY, NORTH)
CAROLINA, PUBLIC REGISTRY)
_____)

**ORDER
AND LIS PENDENS**

FILE IN GRANTOR INDEX UNDER:

_____ JOYCE C. SIMMONS _____
_____ JOYCE SIMMONS _____

WHEREAS, the United States of America, by and through Walt Thrower, Special Agent, United States Drug Enforcement Administration, has presented an affidavit to the Court alleging that the above-captioned property was involved in or facilitated controlled substances trafficking and/or money laundering and/or was the proceeds of such criminal activity, in violation of 21 U.S.C. § 801 *et seq.* and/or 18 U.S.C. §§ 1956-1957; and,

WHEREAS, the Court, having reviewed the affidavit, finds that there is probable cause to believe that the property was involved in or facilitated controlled substances trafficking and/or money laundering and/or was the proceeds of such criminal activity, in violation of 21 U.S.C. § 801 *et seq.* and/or 18 U.S.C. §§ 1956-1957; and,

WHEREAS, upon this finding of probable cause, the property may be subject to criminal or civil forfeiture to the United States pursuant to 18 U.S.C. §§ 981 and 982, and/or 21 U.S.C.

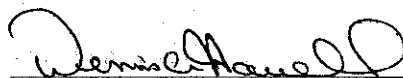
§§ 881 and 853, and the government is entitled to record a lis pendens to give public notice of the government's forfeiture interest and potential civil and/or criminal forfeiture claim against the property;

THEREFORE, the United States is directed forthwith to file this Order and Lis Pendens with the appropriate state or local public depository to prevent the flight or transfer of the property so that the United States may initiate action to adjudicate forfeiture of the property; and,

ALL WHO READ THIS ORDER AND LIS PENDENS TAKE NOTICE that the property is subject to forfeiture to the United States in a present or future criminal or civil *in rem* action before this Court, and any person who has a question as to this action should contact:

United States Attorney
for the Western District of North Carolina
Attn: Thomas R. Ascik, Assistant United States Attorney
100 Otis Street
Asheville, North Carolina
(828) 271-4661

This the 10th day of July, 2007.



DENNIS HOWELL
UNITED STATES MAGISTRATE JUDGE

TO THE RECORDER OF THIS INSTRUMENT: MAIL ANY AND ALL RECORDED COPIES TO THE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA AT THE ABOVE ADDRESS.

AFFIDAVIT

I, Walt Thrower do state and depose the following:

This affidavit is submitted as support for the issuance of a Lis Pendens for the residence located at 57 Candler Heights Road, Candler, North Carolina at the intersection of Morgan Street. I am a Special Agent (SA) with the Drug Enforcement Administration (DEA). I have been employed as a Special Agent for approximately sixteen (16) years and am currently assigned to the Asheville, North Carolina Post of Duty. Prior to my employment with the DEA, I was employed by the Greensboro, North Carolina Police Department as a patrol officer. During my tenure as a Special Agent and patrol officer I have had the occasion to investigate or participate in numerous narcotics investigations.

On 6/29/07, DEA Asheville Agents interviewed a Confidential Source (CS) regarding the marijuana trafficking of Jason SIMMONS. The CS advised that he/she has purchased approximately 200 - 250 pounds of high grade marijuana from SIMMONS since 2005. The CS advised that the 10 - 11 pounds of marijuana Agents seized from his/her residence on 6/27/07, he/she recently acquired from SIMMONS. The CS advised that he/she has picked up a large amounts of the marijuana from SIMMONS' residence at 57 Candler Heights Road, Candler, N.C. and SIMMONS has also delivered marijuana to the CS's residence.

SIMMONS advised the CS earlier in a recorded call that he was going to have 50 pounds delivered and that the CS could go through all the marijuana and take his/her pick. On 7/2/07, the CS, acting on behalf of Agents met with SIMMONS at SIMMONS residence, 57 Candler Heights Road, Candler, N.C. The CS was fronted approximately 12 pounds of high grade marijuana by SIMMONS. The CS observed a large amount marijuana in the basement of the residence in two duffle bags. On 7/3/07, a Federal Search Warrant was obtained for SIMMONS' residence signed by U.S. Magistrate Judge Dennis Howell, Asheville, N.C. On 7/5/07, Agents executed the search warrant at the residence. Agents encountered Melinda Huntsinger first at the door and asked where her boyfriend was. HUNTSINGER advised that she did not know. Agents located SIMMONS in the

basement of the residence. The residence was secured and Agents located three safes, two in the basement and one in a crawl space, just outside one of the upstairs baby bedroom. SIMMONS after talking with two different Attorneys, John Sutton and later Sean Devereux, decided to open the three safes inside his residence. Agents located approximately 48 pounds of marijuana in the two basement safes. The large basement safe contained the majority of the marijuana and a large amount of U.S. Currency in a box and plastic bag. The money in the plastic bag was folded up in \$1,000.00 increments. Agents located a large amount of U.S. Currency concealed in a small safe, which was built into the wall of a crawl space, next to a bedroom designed as a child's nursery. Also located was a small amount of U.S. Currency in a Soap Kit, overnight bag, which was located in the kitchen. The total amount of currency seized was \$256,566.00. A Narcotics Detector Dog was used prior to Agents conducting their search and opening the safes. The K-9 alerted on all three safes that contained currency.

SIMMONS and HUNTSINGER were not arrested at the time of the search warrant. Both subjects did request their Attorneys after they were advised of their rights by Agents. Agents did inquire as to SIMMONS employment in regards to completing a Personal History Form. SIMMONS advised that he worked for Jason Murphy Masonry, supervising a crew of masons and had worked for him for two years. SIMMONS advised that he had resided at the residence for six years. HUNTSINGER advised that she worked for her father's graphics business in Asheville, N.C. and had lived at the residence two months.

A search was conducted through property/tax records in Buncombe County. The residence at 57 Candler Heights Road, Candler, N.C. is in the name of Joyce Simmons, the mother of Jason SIMMONS, 122 Old 1923 Highway, Candler, N.C. Searching agents found no evidence that Joyce Simmons was living at the residence. An indices check was conducted through AutoTrack for Joyce Simmons in an attempt to locate the lake property Jason SIMMONS had referred to in one of his calls with the CS. An address was located listed as 12011 Lake Ridge Lane, Seneca, S.C.

SUSCRIBED TO AND SWORN BY:

SA Walt Thrown

WALT THROWER

SPECIAL AGENT

UNITED STATES DRUG ENFORCEMENT ADMINISTRATION

7/10/2007

DATE

Sworn to and subscribed before me on this the
10th of July, 2007

Dennis L. Howell

DENNIS L. HOWELL
United States Magistrate Judge